

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-21417 (NEW SERIES)

DATE OF FINAL PASSAGE JANUARY 27, 2022

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 129.0710; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 141.0420, RELATING TO MINISTERIAL APPROVAL OF INSTALLATION OF EQUIPMENT IN PUBLIC RIGHT-OF-WAY.

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

- (a) If the proposed *encroachment* involves construction of a privately-owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with Section 126.0402(j) except for the following, which are subject to approval by the City Engineer in accordance with Process One:
 - (1) through (9) [No change in text.]

(10) Encroachment of equipment necessary for fiber optic development or a wireless communication facility into the public right-of-way by applicants for the fiber optic or wireless communication facility industries that can demonstrate that installation of the equipment cannot be undergrounded, as verified by the City Engineer or designee. The equipment shall not exceed 3 feet above the finished grade of the curb line and 4 feet in diameter.

(b) If the proposed *encroachment* is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the *encroachment* will be located, a Site Development Permit is required in accordance with Section 126.0502(d)(6), except for the following:

(1) through (5) [No change in text.]

(6) Encroachment of equipment necessary for fiber optic development or a wireless communication facility into the public right-of-way by applicants for the fiber optic or wireless communication facility industries that can demonstrate that installation of the equipment cannot be undergrounded, as verified by the City Engineer or designee. The equipment shall not exceed 3 feet above the finished grade of the curb line and 4 feet in diameter.

(c) through (d) [No change in text.]

§141.0420 Wireless Communication Facilities

Wireless communication facilities shall comply with the approval process set forth in Section 141.0420(a) through (c) as applicable to the *development*. All *wireless communication facilities* are subject to the general regulations in Section 141.0420(d), the general design requirements in Section 141.0420(e) and the *Wireless Communication Facilities* Guidelines in the Land Development Manual. Section 141.0420 does not apply to amateur (HAM) radio communication facilities.

(a) Limited Use Regulations

Wireless communication facilities are permitted as a limited use decided in accordance with Process One as follows:

(1) through (4) [No change in text.]

(5) Ground-mounted equipment required for a *wireless communication facility*, other than a pole to which *wireless communication facility* is attached, that meets the requirements in Sections 129.0710(a)(10) and 129.0710(b)(6).

(b) [No change in text.]

(c) Conditional Use Permit Regulations

Wireless communication facilities may be permitted with a Conditional Use Permit as follows:

(1) Decided in accordance with Process Three, where the *development* meets the following locational criteria:

(A) [No change in text.]

(B) In the *public right-of-way* with ground-mounted equipment exceeding 3 feet above the finished *grade* of the curb line and greater than 4 feet in diameter; other than a pole to which the *wireless communication facility* is attached.

(2) [No change in text.]

(d) through (g) [No change in text.]

LNH:cm
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